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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 **JOSHUA HILD,**

12 Plaintiff,

13 v.

14 **CALIFORNIA SUPREME COURT;
CALIFORNIA COURT OF APPEAL,
SECOND APPELLATE DISTRICT,**
15 Defendants.

C 075107 TE H

**JOINT ADMINISTRATIVE
MOTION TO CONTINUE
HEARING ON MOTION TO
DISMISS AND CASE
MANAGEMENT CONFERENCE**

Date: Jan. 14, 2008
Time: 10:00 a.m.

17 **NATURE OF ACTION; PROCEDURAL STATUS**

18 An Initial Case Management Conference and a Motion to Dismiss are currently on the
19 Court's calendar for January 14, 2008 at 10:00 a.m. By this joint administrative motion, all parties
20 respectfully request that the hearing on the Motion to Dismiss be continued to February 4, 2008 or
21 such later date as may be convenient to the Court, and that the setting of the Initial Case Management
22 Conference be deferred until the Court has ruled on the Motion to Dismiss.

23 Moving defendant is the Supreme Court of California. The plaintiff alleges that the state
24 Supreme Court's rules for citing precedent in the California's state courts are unconstitutional. On
25 October 24, 2007, defendants California Supreme Court and California Court of Appeal moved
26 under Rule 12(b), Federal Rules of Civil Procedure, to dismiss the plaintiff's original complaint.
27 The hearing on the Rule 12(b) motion was noticed for December 3, 2007. That hearing date was
28 continued on the Court's own motion to December 17, 2007. On November 20, 2007, while the

1 defendants' motion to dismiss was pending, the plaintiff filed a First Amended Complaint.^{1/} The
 2 remaining defendant, the state Supreme Court, filed a motion to dismiss the new complaint. That
 3 motion is presently on the Court's calendar for the morning of January 14, 2008. Moving defendant
 4 believes that a ruling on motion to dismiss may make a Case Management Conference moot.

5 Plaintiff's counsel has his office in Southern California. The Supreme Court's lead counsel
 6 in this matter, Deputy Attorney General Tom Blake, now expects to be involved in a jury trial before
 7 the Honorable Samuel Conti on January 14, 2008.

8 **By this motion, both parties respectfully request that the Motion to Dismiss be heard**
 9 **on February 4, 2008 or such later day as may be available on the Court's calendar, and that**
 10 **the Motion to Dismiss be decided before a Case Management Conference is held. No new**
 11 **briefing will be submitted to the Court.**

12 13 **GROUND FOR REQUEST**

14 As noted above, the Motion to Dismiss and the initial Case Management Conference are now
 15 both set for January 14, 2008, but it appears wasteful of judicial resources to hold the Case
 16 Management Conference before the Rule 12(b) motion is heard. If the motion to dismiss is granted,
 17 as defendant California Supreme Court believes proper, the conference would be moot.

18 The Court has the authority to modify the case management schedule. See Civil L.R. 16-2(d).

19 **CONCLUSION**

20 For the reasons set out above, moving defendants respectfully ask that this Court:

21 * Set a new date and time for hearing on the heretofore-filed Motion to Dismiss that is
 22 convenient to the Court on or after February 4, 2008; and

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26
27 1. The California Court of Appeal was omitted from the superceding First Amended
 28 Complaint and is no longer a party.

* Order the Case Management Conference off calendar pending the disposition of the Motion to Dismiss.

Dated: January 7, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California
/s/ Tom Blake

TOM BLAKE
Deputy Attorney General
Attorneys for Defendant California Supreme Court

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/s/ Brian D. Chase

BRIAN D. CHASE
Attorneys for Plaintiff Joshua Hild

~~[Proposed]~~ ORDER

Pursuant to stipulation, it is so ordered. Hearing on the defendant's Motion to Dismiss is continued to February 4, 2008 at 10:00 a.m.

